

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION  
CASE NO. 24-cr-20051-JEM

UNITED STATES OF AMERICA, Miami, Florida  
Plaintiff, May 15, 2024  
vs. 10:43 a.m. - 2:17 p.m.  
ALFRED LENORIS DAVIS, Volume 2  
Defendant. Pages 1 to 66

TRANSCRIPT OF JURY TRIAL  
BEFORE THE HONORABLE JOSE E. MARTINEZ  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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**STENOGRAPHICALLY REPORTED BY:**  
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**Southern District of Florida**  
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1 (Call to the Order of the Court.)

2 THE COURT: You may be seated.

3 Someone wanted to speak to me.

4 MR. DOMINGUEZ: Judge, I do have a brief  
5 motion. I'll be as quick as possible.

6 THE COURT: Okay.

7 MR. DOMINGUEZ: Just regarding the exhibits  
8 yesterday of the two convictions, you know, that they  
9 were not properly -- I objected to both of them coming in  
10 at the same time.

11 THE COURT: Right.

12 MR. DOMINGUEZ: And they were not properly  
13 identified and linked to this defendant. They basically  
14 were just admitted whole cloth without saying there's  
15 fingerprints, that they could have been analyzed or  
16 attached or other ways of making sure that it's the same  
17 person. They shouldn't be in evidence.

18 I'm moving that they be stricken from the  
19 record and the jury instructed to disregard them and/or  
20 to declare a mistrial, Judge. And that's my motion.

21 Thank you.

22 MR. BAILYN: Your Honor, the defense had an  
23 opportunity to cross-examine the agent about the  
24 authenticity of these documents and the ability to --

25 THE COURT: Why should they have to?

1 MR. BAILYN: They don't have to.

2 THE COURT: I mean, it's your responsibility to  
3 authenticate the document.

4 MR. BAILYN: We did.

5 THE COURT: How do we have the authentication  
6 that that is this person?

7 MR. BAILYN: We do, Your Honor. We had Special  
8 Agent Weisenstine explain how he gathered the documents,  
9 the background check that he ran through FBI, how he  
10 collected the documents, how he went to the County court  
11 and collected the certified records. The questions that  
12 the defense has --

13 THE COURT: There's no question that he got  
14 records of an Alfred Lenoris or whatever it is --

15 MR. BAILYN: Sure.

16 THE COURT: -- but I don't know that there's  
17 been any evidence that this young man sitting in here is  
18 the same person.

19 MR. BAILYN: For example, on the State  
20 conviction, it's the same date of birth as the defendant  
21 and it's his full name, your Honor. These questions that  
22 they have would go to weight, but not the admissibility.  
23 We certainly made a prima facie showing that these  
24 documents are authentic and admissible.

25 THE COURT: I'm not sure.

1 MR. DOMINGUEZ: It's not, and you know that.

2 THE COURT: It's certainly unusual and lazy.

3 MR. BAILYN: Your Honor, this is not a case in  
4 which this is an element of the crime in which case the  
5 Government would then need to prove beyond a reasonable  
6 doubt. This is evidence that is coming in as 404(b).  
7 The Court needs to merely find that we have made a prima  
8 facie showing of authenticity and by a preponderance of  
9 the evidence.

10 THE COURT: You mean that there is a different  
11 standard of evidence for 404(b) than there is for direct  
12 evidence? I don't think so.

13 MR. BAILYN: No, there isn't, your Honor, but  
14 there is a difference in terms of what the Government  
15 does in certain cases. The Government is always -- is  
16 not always under an obligation to do an entire  
17 fingerprint analysis of each defendant, we do that,  
18 though, in order to prove beyond a reasonable doubt a  
19 particular element of the crime.

20 This case was introduced, these convictions, as  
21 404(b) evidence. We don't need to prove them beyond a  
22 reasonable doubt. They simply need to be put before the  
23 jury.

24 THE COURT: You need to prove your case beyond  
25 a reasonable doubt, and one of the things that you

1 propose to prove your case is that this individual was  
2 previously convicted twice of a felony, one of which was  
3 remarkably similar to this case, but you haven't shown  
4 that this is the same guy.

5 MR. BAILYN: But we have, your Honor. The  
6 standard for the admissibility of 404(b) --

7 THE COURT: How have you shown it?

8 MR. BAILYN: The standard is by a preponderance  
9 of the evidence for 404(b) evidence. We have had the  
10 special agent testify that he ran an NCIC of this  
11 defendant using his Social Security number, date of  
12 birth, and personal identifying information; that  
13 information that was returned in the NCIC allowed the  
14 special agent to go and collect records, records that  
15 existed exactly as the NCIC said they would -- records  
16 that have both the defendant's date of birth and --

17 THE COURT: Because nobody misuses Social  
18 Security numbers, nobody uses somebody else's Social  
19 Security number ever.

20 MR. DOMINGUEZ: But those convictions --

21 THE COURT: I mean, that's just nonsense.

22 MR. DOMINGUEZ: Those convictions do not have  
23 Social Security numbers or any reference to any Social  
24 Security number whatsoever. One of them doesn't even  
25 have a date of birth.

1 MR. BAILYN: Allow me to finish.

2 MS. SADLO: No, that is not true. The state  
3 conviction certainly has the date of birth.

4 First of all, your Honor, the Social Security  
5 number is used --

6 THE COURT: One at a time.

7 MR. DOMINGUEZ: And fingerprints.

8 MR. BAILYN: The Social Security number is used  
9 for the special agent to do a background check and then  
10 determine where to find these corresponding records,  
11 records that entirely corresponded with federal databases  
12 the special agent used.

13 We are not attempting to prove these  
14 convictions beyond a reasonable doubt. It's not an  
15 element of the crime. This isn't a 922G. This is,  
16 however, a case of 404(b), where we merely need to prove  
17 by a preponderance of the evidence that this was the  
18 defendant.

19 The jury has more than enough to both have  
20 these exhibits in front of them and for us to have shown  
21 by a preponderance of the evidence based on Special Agent  
22 Weisenstine's testimony, his research, and his collection  
23 of these records that it is, in fact, the defendant who  
24 was convicted.

25 THE COURT: I'll overrule your objection, but

1 I'm not convinced.

2 MR. DOMINGUEZ: Look at the documents, Judge.  
3 Like I said, even the State conviction does not have a  
4 date of birth on it.

5 MR. BAILYN: It does. On the first page --

6 THE COURT: You can argue that --

7 (Simultaneous crosstalk.)

8 THE COURT: You can argue that --

9 MR. BAILYN: At the top, and the date of birth  
10 is to the left.

11 THE COURT: You can argue that to the jury.

12 All right. Can we bring the jury in?

13 I overrule your objection.

14 MR. DOMINGUEZ: Thank you, Judge. Thank you  
15 for the opportunity to address the Court.

16 THE COURT: No problem. I love hearing from  
17 lawyers early in the morning. It's good for me. Builds  
18 character.

19 Please bring the jury in.

20 (Jury enters at 10:49 a.m.)

21 THE COURT: All right. Please be seated.

22 Are we ready to proceed.

23 MS. SADLO: Yes, your Honor. The United States  
24 is ready to proceed.

25 THE COURT: Defense?



1 MS. BOZANIC: Yes.

2 MR. DOMINGUEZ: Judge, for the record,  
3 Ms. Bozanic will be doing the closing, but I will be  
4 doing the objections.

5 THE COURT: Say again, please.

6 MR. DOMINGUEZ: For the record, Ms. Bozanic  
7 will be doing the closing, but I will be doing the  
8 objections.

9 THE COURT: Okay. Not real crazy about  
10 objections during closings unless you have something  
11 that's really important because sometimes it's done for  
12 purposes of just interrupting and knocking them off their  
13 stride, but I trust you won't, as an experienced  
14 attorney, do that.

15 MR. DOMINGUEZ: I won't do that, Judge.

16 THE COURT: Ladies and gentlemen, as I told you  
17 before, the statements that the lawyers made to you at  
18 the beginning of the case, as well as the arguments they  
19 present to you now, are not to be considered by you as  
20 either evidence in the case, which comes only from the  
21 witnesses and exhibits, or as your instruction on the  
22 law, which comes only from the witnesses -- I'm sorry,  
23 which comes only from here.

24 These statements or arguments are,  
25 nevertheless, very important to help you understand the

1 evidence as it comes in and the issues or disputes you  
2 will be called on to decide, as well as the positions  
3 taken by both sides. So I ask that you now give the  
4 lawyers your close attention, as I recognize them in turn  
5 for the purpose of making an opening statement.

6 Now because the Government has the burden of  
7 proof, which never shifts, they will have the opening and  
8 closing argument, rebuttal argument. The defense will  
9 have one argument. I'm going to put 15 minutes on the  
10 board, and whatever you don't use, you'll have for  
11 rebuttal. If you use it all, you'll have it all gone.

12 Bye. Go ahead. Go.

13 MS. SADLO: Your Honor, may I ask a brief  
14 question before you start the timer?

15 THE COURT: Say again, please?

16 MS. SADLO: May I ask one clarifying question?  
17 We have 30 minutes each side total for closings.

18 THE COURT: I'm sorry. Was that what it was,  
19 30?

20 MS. SADLO: Yeah.

21 THE COURT: I was hoping you would forget, and  
22 I would get away with 25.

23 MS. SADLO: We'll do our best. Okay. 30 is  
24 fine. I do remember that now.

25 THE COURT: How much do you want to reserve for

1 later? Like I said, if you go over, you go over.

2 MS. SADLO: Yes, your Honor. We'd like to  
3 reserve ten minutes for rebuttal.

4 THE COURT: All right. So I'll put 20 minutes  
5 on for you now, but if you go over you're still able to  
6 keep going, you may go for your full 30.

7 All right. You may proceed.

8 MS. SADLO: Thank you, your Honor. May we  
9 please have all the screens turned --

10 THE COURT: The computer?

11 MS. SADLO: The computer at counsel table.

12 THE COURT: Yes, you may, theoretically. It's  
13 very possible that you may.

14 MS. SADLO: Good morning, Ladies and Gentlemen.

15 So yesterday we heard all the evidence in this  
16 case. Today we get to talk about how that evidence meets  
17 all the legal requirements of the crime that the  
18 defendant, Alfred Davis, was charged with.

19 You heard in opening statements yesterday the  
20 defendant has been charged with one count of access  
21 device fraud. We're going to go through each of the  
22 legal requirements for that crime. But in its simplest  
23 terms, we are here today because the defendant lied about  
24 the most basic piece of information he could, his  
25 identity. And he lied about his identity when he used

1 that fake driver's license with a fake name to pass a  
2 background check and trick 400 Sunny Isles into allowing  
3 him to live there and gain access to all of the amenities  
4 that that beautiful luxury condominium had to offer.

5 Let's talk about the elements of that crime.  
6 There are three elements. First, the defendant knowingly  
7 used a counterfeit access device. Second, the defendant  
8 knew the access device was counterfeit and acted with an  
9 intent to defraud or deceive. And third, the defendant's  
10 conduct affected interstate commerce.

11 So let's start with the first element. We're  
12 going to talk about what each of the words in that  
13 element mean. First, what is an access device? You're  
14 going to get a packet of jury instructions later when you  
15 go back to deliberate. You'll see there is a long  
16 definition of access device. But all that matters here  
17 today is a personal identification number. A driver's  
18 license is a personal identification number.

19 What does it mean to have a counterfeit access  
20 device? Well, to have an access device that's  
21 fictitious, altered, or forged. Here, a fake driver's  
22 license.

23 How do we know that the license that was used  
24 to pass a background check is fake? Well, we heard from  
25 Special Agent Weisenstine that he requested the DMV

1 records, the official records from the Florida Highway  
2 Safety and Motor Vehicles, for that driver's license  
3 number. We heard that that driver's license number and  
4 the official records doesn't return any information for a  
5 Rod Lesperance, and it certainly doesn't return any  
6 information for an Alfred Davis. Instead, that driver's  
7 license number returned a record for an Aaron James  
8 Lukoff. We can also see, when comparing those two, that  
9 the fake license uses both the driver's license number  
10 and the date of birth on Mr. Lukoff's record. So because  
11 that driver's license number didn't come back to anybody  
12 named Rod Lesperance, we know that that license is fake.

13           How do we know that the defendant is the one  
14 who used that license? Another piece of that jury  
15 instruction that you'll get later today is the difference  
16 between direct evidence and circumstantial evidence.  
17 Direct evidence is something you see, or when a witness  
18 comes and testifies about something they saw.  
19 Circumstantial evidence is a proof in a chain of facts  
20 and circumstances that tend to prove or disprove that a  
21 fact occurred. It's facts that lead to a legal inference  
22 that something occurred.

23           For example, if your friend comes running in  
24 the building and tells you it's raining outside, that's  
25 direct evidence. If your friend comes running inside, is

1 soaking wet and carrying an umbrella, but doesn't say  
2 that it was raining outside, you still know it's raining  
3 outside because your friend is soaking wet and she's  
4 carrying that umbrella. So just like we know that it was  
5 raining outside based on those facts, we know in this  
6 case it's in all the evidence that we've seen that the  
7 defendant is the one who used this driver's license.

8 Now, let's talk about that evidence. First,  
9 the defendant used his own photo for that driver's  
10 license. You heard from Special Agent Weisenstine that  
11 when he first saw the defendant, he looked a little  
12 different than he looks here today in court. He had a  
13 beard, he had shorter hair, and he didn't have glasses  
14 on, but he still had those unique eyes that you can see  
15 in that driver's license.

16 Now, in addition to that photo, him using his  
17 own photo, how do we know that it's him? Well, we're  
18 here today because the fake driver's license was used for  
19 Unit 2004 in 2023. Who is the tenant of Unit 2004?  
20 Cynthia Louis, the defendant's mother. How do we know  
21 that it was his mom? Well, we saw the form she submitted  
22 for her background check. And on those forms, we see  
23 that Cynthia Louis has a maiden name of Stuckey.

24 We also saw the defendant's birth certificate  
25 that clearly tells us that the mother, Cynthia Stuckey,

1 and the child is Alfred Lenoris Davis. So based on that  
2 evidence, we know that the tenant of Unit 2004 was the  
3 defendant's mother.

4 How else do we know that the defendant was tied  
5 to Unit 2004 and that he was acting as Rod Lesperance and  
6 used that fake ID? Well, the defendant helped connect  
7 the dots for us. He wrote a check in his own name to 400  
8 Sunny Isles. Now, you'll see on the right side of the  
9 screen there is a copy of all the defendant's signatures  
10 from his DMV record. And so that's how we know that the  
11 person -- the Alfred Davis who submitted this check to  
12 400 Sunny Isles is the same Alfred Davis that we have  
13 here in court today.

14 What other evidence, what other facts together  
15 show that the defendant is actually Rod Lesperance?  
16 Well, in the condominium agreement, you see that the two  
17 residents that were approved are Cynthia Louis and Rod  
18 Lesperance and that Rod Lesperance is almost the same  
19 exact age as the defendant. It's about one year off.

20 We see that the only car that is listed in the  
21 condominium agreement for Unit 2004 is a 2021 gray Land  
22 Rover. Who has a 2021 gray Land Rover? One of the  
23 records that you'll get tomorrow as part of that DMV  
24 record is this record from motor vehicle inquiry report,  
25 and it tells us the defendant, Alfred Lenoris Davis, has

1 a 2021 gray Land Rover.

2 All of this evidence together works to prove  
3 one conclusion: The defendant is Rod Lesperance, except  
4 his name is really Alfred Davis, and he's the same person  
5 who used that driver's license to pass that background  
6 check.

7 And we should talk briefly -- we heard some  
8 testimony and cross-examination about who actually sent  
9 that email to 400 Sunny Isles. You'll see the elements  
10 of the crime again. It doesn't say that you submitted  
11 the driver's license. It says that you used it. We  
12 heard from the assistant manager of the condominium  
13 association that they use those driver's licenses to make  
14 sure that the person in front of them is the person  
15 they're dealing with, the person that they might approve  
16 to move into their luxury condominium, the person that  
17 they are going to run the background check on.

18 And after he got that license and used that  
19 name, and submitted it through the report, we know that  
20 Rod Lesperance was the person that was actually added to  
21 the lease.

22 Let's talk about the opposite. If it wasn't  
23 the defendant who is Rod Lesperance, that would mean that  
24 a different man who looks just like the defendant, has  
25 the same car as the defendant, is the same age as the



1 defendant, was the only other occupant of his mother's  
2 lease. That's not a logical conclusion from all the  
3 evidence that we have seen. The logical conclusion of  
4 all this evidence that we just discussed is that the  
5 defendant was Rod Lesperance.

6 Now, we know the license was fake. We know  
7 that the defendant was acting as Rod Lesperance. How do  
8 we know that the defendant knew the license was fake?  
9 You're also allowed to use your common sense as you  
10 review this evidence. The defendant knew that this  
11 license wasn't his because it had a different name, a  
12 different date of birth, and a different driver's  
13 license. So all that evidence shows that the defendant  
14 knowingly used a counterfeit access device.

15 Let's go to the second element. The defendant  
16 knew the access device was counterfeit and acted with an  
17 intent to defraud or deceive. I won't go over all the  
18 evidence we just discussed again for the first half of  
19 the element because we already know that the defendant  
20 knew the access device was false.

21 How do we know that he acted with an intent to  
22 defraud or deceive? Your jury instructions will define  
23 intent to defraud for you. It means to act with an  
24 intent to deceive or cheat. Now, that instruction will  
25 also say, usually, that's for personal financial gain or

1 to cause financial loss to someone, but it doesn't say  
2 that that's a requirement of that element. Intent to  
3 deceive or cheat also happens when a person obtains  
4 something by deceptive means, by lying, to get something  
5 that they're not entitled to.

6 How do we know that the defendant in this case  
7 acted with an intent to defraud or deceive? He used a  
8 name that wasn't his, a date of birth that wasn't his,  
9 and a driver's license that wasn't his, so that he could  
10 pass the background check that was required to become an  
11 applicant of 400 Sunny Isles. What did the defendant get  
12 for his lie? He got to live and be a resident and gain  
13 access to all of the amenities that the beautiful luxury  
14 condominium offers at 400 Sunny Isles, to the pool, the  
15 tennis courts, the security, all things that the  
16 defendant, Alfred Davis, wasn't entitled to in his own  
17 name because he never got approved by the condominium  
18 association to live there, because he never submitted his  
19 own information and because his own information wasn't  
20 used on that background check to approve a resident.

21 Now, we might be wondering why? Why would the  
22 defendant lie about who he is to become a resident at 400  
23 Sunny Isles? Now, to be clear, the reason the defendant  
24 chose to lie isn't an element of the crime, but we have  
25 seen evidence that helps explain why the defendant might

1 have done this.

2 Now, we heard that the name Rod Lesperance was  
3 used by the defendant before when he lived in Unit  
4 2000- -- excuse me, in Unit 903, back in 2018. We know  
5 that because we heard Mr. Jean-Pierre tell us that the  
6 same Rod Lesperance that lived in Unit 2004 lived in Unit  
7 903. And we know that in 2018, Rod Lesperance also had  
8 to apply for a background check. We know that he also  
9 had to submit a license with another photo that looks  
10 just like the defendant and that that license was used  
11 for a background check, and when he used that license for  
12 a background check, that comprehensive criminal search  
13 came back clear.

14 So the defendant intended to deceive, and he  
15 did this because he had already given them the name Rod  
16 Lesperance. He couldn't now come back and use a  
17 different name. That would raise a red flag. And he  
18 also used the name Rod Lesperance because he already knew  
19 it would give him a clear background check, and that he'd  
20 get approved for Unit 2004, just like he got approved for  
21 Unit 903. The defendant even went so far in the license  
22 he submitted for Unit 2004 that he included that 903  
23 address on that license that he used because he had to  
24 keep that lie going so he could get approved again.

25 We also heard that the defendant had other

1 reasons for lying about who he was. The key piece of  
2 becoming an applicant -- or, excuse me, a resident at 400  
3 Sunny Isles is passing a background check. We heard  
4 through this trial that the defendant would have had some  
5 results come back up in that background check. We heard  
6 from Special Agent Weisenstine that he ran a criminal  
7 background check on the defendant, Alfred Davis, using  
8 the defendant's information. And what did he find? He  
9 found the defendant had a criminal record, that he had a  
10 felony -- prior felony conviction, and so what does that  
11 evidence tell us?

12 It tells us that the defendant acted as Rod  
13 Lesperance so he could pass a background check that he  
14 couldn't pass on his own. So we know the defendant knew  
15 that the counterfeit access device was fake, and we know  
16 he acted with the intent to defraud or deceive because he  
17 wanted to trick 400 Sunny Isles into thinking he was  
18 somebody completely different, somebody who didn't have a  
19 background check, so they would allow him to live at 400  
20 Sunny Isles. So we know that element has also been met  
21 and proven beyond a reasonable doubt.

22 The third and final element. The defendant's  
23 conduct affected interstate or foreign commerce. You'll  
24 see in your instructions that that means any transaction  
25 that involves communication between a place in one state

1 and a place in another state. What evidence have you  
2 seen of that here?

3 Well, we heard from Mr. Jason Brown, the owner  
4 of Brown's Background Checks. He told us that he has  
5 been working with 400 Sunny Isles for years. They have a  
6 system. 400 Sunny Isles takes somebody's name, asks for  
7 a driver's license to verify that name, and that that  
8 name is pivotal to what gets entered into the system, to  
9 run a background check, that Brown's Background Check  
10 then does for them.

11 We also learned how that background check is  
12 ran. From Florida where they enter the name on that  
13 license, it goes to a criminal database in California.  
14 So boom, interstate commerce, communication between  
15 Florida and California. We also know that that  
16 California database then communicates with all of the  
17 counties across the nation. Additional interstate  
18 commerce. And we know that that criminal database in  
19 California and the databases all across the country were  
20 used in this specific case for the background check ran  
21 on April 13, 2023, in Miami, Florida, for Rod Lesperance.

22 Now, we can all see on Government's Exhibit 3  
23 that there was a typo. We know that the front desk  
24 person takes the person's ID and has to type that  
25 information in. We have heard that typos sometimes

1 happen, and a typo happened here. But that doesn't  
2 matter for the defendant's crime because that information  
3 is still typed in based on that driver's license, and that  
4 background check was still run based on that driver's  
5 license that was submitted by the defendant to live at  
6 400 Sunny Isles. So the defendant's conduct still  
7 affected interstate commerce. Him giving that license is  
8 why this background check was ran. By using a different  
9 name, the nationwide criminal search showed that the  
10 defendant didn't have a criminal record. In its simplest  
11 form, the defendant used a fake license with a fake name  
12 to pass a background check to gain access to a luxury  
13 condominium in Miami that he didn't have access to.

14 We heard from Mr. Jean-Pierre that not everyone  
15 is allowed to go into 400 Sunny Isles. They have to  
16 apply, and they have to pass a background check, things  
17 Alfred Davis didn't do.

18 Based on all the evidence we've heard through  
19 this case, the United States respectfully requests at the  
20 end of this trial you return the only verdict that is  
21 consistent with the law, the facts, and your common  
22 sense. Find the defendant guilty of access device fraud.

23 Thank you.

24 THE COURT: You have 14 minutes left.

25 You may proceed, Defense.

1 MS. BOZANIC: Thank you, your Honor.

2 May I proceed, your Honor?

3 THE COURT: You may proceed, still.

4 MS. BOZANIC: Thank you for patiently waiting  
5 to hear this case and for being with us for two days.  
6 Your job is extremely important. Without you, we  
7 wouldn't have the juries and we wouldn't have the system  
8 that we have to ensure that everybody gets a fair trial,  
9 including my client, Alfred Davis, who stands before you  
10 today, or sits before you today, and you get to decide  
11 the merits of the case.

12 As I told you in the opening statement, this  
13 case is about pieces of a puzzle. The Government charged  
14 one count in the indictment, an access device fraud that  
15 happened in April of 2023. But what did they do? The  
16 pieces of the puzzle in that 2023 case didn't match, so  
17 they decided to throw in three more puzzles at you. And  
18 you have all these pieces of puzzle, and you're supposed  
19 to make sure your decision because you're just being  
20 thrown extra evidence. That has nothing to do with to  
21 2023 charges.

22 The Government has the burden to prove this  
23 case beyond and to the exclusion of all reasonable doubt.  
24 And when I talk about reasonable doubt, reasonable doubt  
25 is not if I tell you, you know, the sky is not blue,

1 obviously that's not reasonable doubt because you know  
2 the sky is blue. But reasonable doubt is something else,  
3 and you'll get an instruction on what reasonable doubt  
4 is. You get to use your common sense and you get to  
5 decide whether proof beyond a reasonable doubt is proof  
6 so convincing that you would be willing to rely and act  
7 on it without hesitation in the most important of your  
8 own affairs. That is what the definition of reasonable  
9 doubt is.

10 So let me talk about criminal cases. The  
11 Government has this very high burden of proof because  
12 it's a criminal case. It's one of the highest burdens  
13 that you can have. And until they meet their burden of  
14 proof, the defense does not have to do anything. I don't  
15 have to even talk to you. I don't have to cross-examine  
16 the agent. I don't have to put any evidence if I believe  
17 that they did not meet their burden. And you are not to  
18 consider that. You are to consider whether the  
19 Government has met their burden without requiring the  
20 defense to do anything. If the Government meets their  
21 burden, then the defense can disprove that and show you  
22 something else. You need to decide whether they have met  
23 their burden. And I will show you why they have not.

24 First of all, there was no proper investigation  
25 in this case. You heard from three witnesses. Nobody



1 could tell you who submitted this ID. And I know the  
2 Government wants to say, well, it's not about who  
3 submitted it, it's who used it. It's like tomato-tomato.  
4 I mean, it's the same thing. Whoever submitted it is the  
5 one who used it.

6 When we started this case, I told you  
7 that there would -- just to hear me out, to listen to the  
8 evidence, and I will talk to you about why you will find  
9 my client not guilty. Now, there are three different  
10 elements in this charge, and what the Judge will instruct  
11 you is that you have to decide whether Mr. Davis  
12 knowingly used the counterfeit access device with intent  
13 to defraud -- that's the second element -- and whether it  
14 affected interstate commerce.

15 Now, let's talk about the lack of evidence  
16 first, and I'll go through the elements. I want to talk  
17 about the 2023, the date that's charged in the  
18 indictment, the first puzzle. They presented you with a  
19 copy, and an ID in the name of Rod Lesperance.

20 MR. DOMINGUEZ: Judge, she wants to use the  
21 ELMO.

22 THE COURT: That's fine. It's all right with  
23 me. It's not being used by anybody else.

24 MS. BOZANIC: If you look at this piece of  
25 evidence, the license that was supposedly used on April

1 13, 2023, if you look here in the corner, 4/13/23 at  
2 1:40 p.m. If you keep looking it says male, Yadalyn  
3 Monteste, Outlook, right there in the left corner.

4 You heard from Jeff Jean-Pierre that Yadalyn  
5 Monteste was the person that worked who worked at the  
6 front desk in 2023 and that this ID -- he couldn't tell  
7 you where it came from because it was emailed probably to  
8 her and he was trying to speculate as to where it came  
9 but at the end said, I don't know where it came from  
10 because it was emailed and, obviously, I wasn't there.

11 When I asked him whether the Government even  
12 attempted to ask him where Yadalyn Monteste was so that  
13 she could come and testify and tell us where this came  
14 from, he said they never even asked him. The Government  
15 never called Yadalyn Monteste. She is the one who can  
16 tell you who sent this email.

17 Do you know what else can tell you who sent  
18 this email? The actual email itself. If you pull the  
19 email from this Outlook, which is a business record --  
20 and they have copies of this -- it will tell you it came  
21 from person X to Yadalyn Monteste. They didn't do that,  
22 they didn't bother to do that.

23 What else could they have done? They pulled --  
24 did they do a subpoena? This is the Federal Government.  
25 Did they subpoena this email in the name of Yadalyn

1 Monteste? No, because they just want to throw these  
2 pieces of puzzle at you and say, you know what, it's good  
3 enough. We have no idea where these came from. They  
4 cannot prove who submitted this, and they cannot prove  
5 who used it.

6 Now, Mr. Jean-Pierre told you he didn't see  
7 who -- he can't testify who provided the ID in 2023. Did  
8 you also notice that there was no authorization to pull  
9 the credit report of Rod Lesperance in 2023? There is  
10 one of Cynthia Louis, but there's absolutely no  
11 authorization signed by anybody who claims to be Rod  
12 Lesperance. And what they did is they put a different  
13 name -- it was an accident or some kind of an error, and  
14 they put the name of Rob Lesperance with no Social  
15 Security number.

16 So they do have the evidence that Cynthia Louis  
17 applied, and she actually signs this document applying  
18 and authorizing for them to pull the credit reports, but  
19 they don't have one for Rod Lesperance. They pulled  
20 somebody else's credit report. It has no value. And  
21 they want to say that that mistake caused interstate  
22 commerce to be affected.

23 Now, they bring in all of these side puzzles  
24 because they're trying to deflect from the fact that they  
25 have no evidence as to who submitted or used this ID in

1 2023, and they decide to say, You know what, let's talk  
2 about 2018. Let's present the jury with this old 2018,  
3 you know, and even though it's five or six years and we  
4 can't do anything about it because it's been more than  
5 five years, we can't even charge him with this, let's  
6 just bring it to the jury and try to deflect from the  
7 whole fact that we can't prove our case.

8           So what did they do? They throw the puzzle  
9 No. 2 at you, and Jeff Jean-Pierre talks about that. He  
10 tells you, well, usually, it's the applicants who submits  
11 it, but then he admits, I don't remember who submitted it  
12 because it was over five years ago. I have no idea who  
13 submitted it. He thinks he is the one who received it,  
14 but he doesn't remember who got it.

15           The lease is under Booker Warren. That's in  
16 the evidence. Nobody talked about Booker Warren, nobody  
17 brought Booker Warren. Jeff Jean-Pierre tells you that  
18 spoke to Rod Lesperance and he said, Yeah, I saw him here  
19 and there. But did you notice that nobody asked him --  
20 the Government who has the burden of proof never asked  
21 Jeff Jean-Pierre to say, Can you please point out Rod  
22 Lesperance in this courtroom? Can you point to him? Do  
23 you see him? Of all these people here in the courtroom,  
24 do you see Rod Lesperance?

25           He never identifies who he believes to be Rod

1 Lesperance. So he's talking about some person Rod  
2 Lesperance but he never says, Hey, this is Rod  
3 Lesperance, this is the guy. He never comes on the stand  
4 and says that. You have no identification at all.

5 So, again, no one can testify about the 2018  
6 case that you shouldn't really be considering, but it's  
7 thrown in there as a second puzzle to cloud your  
8 judgment. And what did they do then?

9 And, by the way, that 2018 -- You'll get an  
10 instruction on similar acts evidence, and it tells you  
11 that if you find Mr. Davis committed that 2018 act, if  
12 you find that he committed it, if there is enough  
13 evidence to make you believe that this man committed that  
14 act, only then you can only use it to help you decide the  
15 similarity between the acts, but you cannot use it for  
16 any other purpose and you cannot convict him of the 2023  
17 incident, just because you believe he committed 2018.

18 So they have these two puzzles and they say,  
19 you know what, what else can we throw at him? Let's make  
20 him look really bad in front of the jury, and let's just  
21 kind say he's a convicted felon and bring in these  
22 judgments and talk about that, you know what, he got  
23 convicted in 2004, and I think he said 2010, and because  
24 he was a convicted felon, that's why he applied. This is  
25 their theory, that that's why he applied for this lease.

1 Not because, you know, he had an eviction or maybe he had  
2 a bad credit report. It's because he's a convicted  
3 felon. What else could poison the jury's mind more,  
4 somebody being evicted or somebody being a convicted  
5 felon?

6 And what they do is they bring you these two  
7 judgments. And the judgments -- so they talk about the  
8 one from 2004 says Alfred L. Davis. It doesn't have a  
9 date of birth. Doesn't have a Social Security number,  
10 and it basically -- you know, it's Alfred Davis. They  
11 talk about the fact that the agent went and picked up  
12 these judgments. How did they prove that this is the  
13 person, the same person as on the judgment? The 2010  
14 judgment is from state court, and it just has the name of  
15 Alfred Davis. There are fingerprints. I will show you  
16 that.

17 In Government's Exhibit 15, there are  
18 fingerprints of an Alfred Davis. Do you know what the  
19 FBI can do to prove that this is the same person? They  
20 have an FBI lab that can run fingerprints with the  
21 database they have. Did you hear testimony from anybody  
22 saying that Alfred Davis whose fingerprints are on this  
23 record is the same Alfred Davis as the one being tried in  
24 this case?

25 So here come Puzzle 3 and 4. Let's talk about

1 the fact -- Let's cloud the jury's mind even more to  
2 deflect for the fact that we can't prove our case. Let's  
3 talk about the fact that he's a convicted felon. Let's  
4 talk about the fact that somebody who's a convicted felon  
5 can't start over, is not a good person, and cannot live  
6 at a condominium, and that must be the reason why they  
7 applied.

8 This is their theory. The theory has flaws.  
9 They are the Government. They are supposed to prove this  
10 case beyond a reasonable doubt to you. All they have  
11 done is thrown their theories, their pieces of a puzzle.  
12 They are just thrown at you and nothing makes sense.  
13 It's kind of like throwing things at a wall to see what  
14 sticks, but nothing is sticking and just have all these  
15 little pieces. Pieces are not enough.

16 For the Government to prove a case beyond a  
17 reasonable doubt, they have to prove each and every  
18 element of the indictment, and the indictment charges  
19 that on April 13, 2023, Alfred Davis used, knowingly used  
20 an unauthorized access device with intent to defraud and  
21 it affected interstate commerce.

22 Now, I'm going to go back to what  
23 Mr. Jean-Pierre told you. He also told you that he is  
24 not the owner of this building. He's just a property  
25 manager. He told you Marco Chique, the Brazilian

1 businessman who bought this place in February of 2023,  
2 rented it out right away in April, he's the one receiving  
3 rent. And Mr. Jean-Pierre cannot testify as to anything  
4 about the rent. He doesn't collect it. He doesn't own  
5 the building. He doesn't own the pools. The pool, the  
6 tennis courts -- you know, the Government wants to argue,  
7 well, even though there's no financial loss, there's  
8 intent to defraud because the person would have used the  
9 tennis courts, the security, the pool. Who owns the pool  
10 in a building of, let's say, 500 residents? Who owns the  
11 tennis courts in a building of 500 residents? Is it  
12 those tenants who paid \$500,000 or more for an apartment?  
13 Do they all own a piece of that pool, a piece of that  
14 tennis court, or is it a property management building?

15           The property managers only manage the building.  
16 They don't own the building. The board of directors are  
17 just the board of directors. They don't own the  
18 building. The residents, such as Marco Chique, is the  
19 one who would have been the appropriate victim of a  
20 crime. But he wasn't brought here. You never heard from  
21 Marco Chique. The Government didn't call him because  
22 Marco Chique got his \$30,000 rent from Cynthia Louis  
23 every month.

24           And there's no intent to defraud. The  
25 Government even told you at the beginning, We are not



1 saying that this rent wasn't paid. They admitted that in  
2 opening, even though whatever they say is not evidence,  
3 but Jeff Jean-Pierre told you there was no eviction. I  
4 didn't know of anything. The rent was being paid.

5 So what is the intent to defraud? The intent  
6 to defraud -- I will read you the definition and you'll  
7 get it in the jury instructions when you go back:

8 To act with the intent to defraud means to act  
9 with intent to deceive or cheat, usually for personal  
10 financial gain, or to cause financial loss to somebody.

11 And now the Government wants to say, well, it  
12 says usually for personal financial gain. Well, let's  
13 look at the jury instruction. This whole jury  
14 instruction that talks about what elements they have to  
15 prove, the defendant knowingly used a counterfeit access  
16 device, that he knew the access device was counterfeit  
17 and acted with intent to defraud or deceive, and that it  
18 affected interstate commerce.

19 When you read this, just read the whole  
20 instruction. It tells you, An access device is a credit  
21 card plate, code, account number, electronic serial  
22 number, mobile identification number, personal  
23 identification number, or other means of account access  
24 that can be used alone or in conjunction with another  
25 access device to get money, goods, services or any other

1 thing of value or that can be used to initiate a transfer  
2 of funds.

3 They're arguing that this driver's license is  
4 an access device, and it may be, in some cases, where  
5 somebody is committing credit card fraud or trying to get  
6 some type of money and transfer money, but they're so  
7 stuck on bringing Mr. Davis into federal court, for  
8 whatever reason, they want to have this federal charge  
9 and they're going to do anything to bring him to federal  
10 court.

11 So now they're going to say, you know, we're  
12 going to call this driver's license an access device,  
13 even though the whole instruction talks about getting  
14 money. There was no money that was obtained here  
15 illegally. Absolutely none.

16 Then it talks about what's a counterfeit access  
17 device, and it talks about to use includes any effort to  
18 obtain money -- to use includes any effort to obtain  
19 money, goods, services, or any other thing of value, or  
20 to initiate a transfer of funds with a counterfeit access  
21 device. How do you transfer money or funds? How do you  
22 initiate a transfer of funds with this driver's license?  
23 Yes, you can go to a bank and transfer money, but that's  
24 not the case we're here for. We're here for possession  
25 of a fraudulent driver's license.

1           This is not what the federal statute -- the  
2   1029(a)(1), that's what they charged him with. This is  
3   not what this is for. The whole instruction talks about  
4   money, and it tells you, again, what I read, to act with  
5   intent to defraud means to act with intent to deceive or  
6   cheat, usually for personal financial gain or to cause  
7   financial loss to someone.

8           So they want to say, well, it says usually.  
9   They want to focus on the word usually, but read the rest  
10  of the instruction. Everything is about money. They  
11  have to prove that somebody did this so they could get  
12  some money out of somebody, and that's not the case.

13           What makes this crime a federal crime is in the  
14  1029 -- 18 U.S.C. 1029(a)(1), is all those three  
15  elements. Without having all those three elements, we're  
16  not going to be here for two days in federal court. But  
17  the Government wants Mr. Davis in federal court. That's  
18  their goal. They want him in federal court. There's  
19  absolutely no place for this charge being here. There is  
20  no intent to defraud. No one tried to get money. If  
21  somebody even used a fake driver's license, that is a  
22  state charge of having a fake driver's license. That is  
23  not a federal charge that should be before 14 people in  
24  federal court.

25           Now, they can't prove any of the elements.

1 They bring it here. And they want to basically talk  
2 about the fact that, you know, he used some amenities at  
3 a building. There's no financial loss to the building.  
4 If somebody was to rent an apartment for \$13,000, that  
5 owner who rents it is giving access to the building.  
6 That's not what this charge is for.

7 The interstate commerce element, the third  
8 element, they have to prove that, beyond a reasonable  
9 doubt, that the use of this counterfeit access device,  
10 that they call a driver's license, affected interstate  
11 commerce on April 13th when they ran a background check  
12 for Rob Lesperance, not Rod Lesperance, with a different  
13 Social Security number -- actually, with no Social  
14 Security number because there was no application.

15 So how did this affect interstate commerce. If  
16 this didn't affect interstate commerce, again, we have no  
17 elements of the crime. This is not a federal charge, 14  
18 people in this room are not going to be here. This judge  
19 is not going to preside over this case. This is going to  
20 be over in the Gerstein building in state court, but no,  
21 they want to have Mr. Davis in federal court. That's the  
22 goal. So let's make sure we can charge him with  
23 something because there's no other statute in federal  
24 court that can charge somebody with possession of a  
25 fraudulent ID.

1           And let's talk about all these different  
2 puzzles and all these different things, because we can't  
3 prove the 2023, we can't prove it beyond a reasonable  
4 doubt. Let's throw in all this other stuff and make him  
5 out to be a bad guy, and make him out to be possibly the  
6 one who did it in 2018, because we can't charge him with  
7 that.

8           So the Government is destroying whatever they  
9 want to stick, just trying to see what sticks to the  
10 wall. This is not proof beyond a reasonable doubt. They  
11 have to be able to prove this case beyond a reasonable  
12 doubt. They have to be able to prove the case, every  
13 single element of this case, beyond a reasonable doubt.

14           You have to hold the Government to their  
15 burden. It is their burden, and until they meet their  
16 burden, there's absolutely nothing the defense needs to  
17 do to disprove this, absolutely nothing. And, as I said,  
18 in the jury instruction, you can't hold that against the  
19 defense. You're not supposed to, and I hope that you  
20 don't because until they meet their burden and until they  
21 actually present the case that somebody committed a crime  
22 on April 13, 2023, and they prove to you who submitted  
23 the ID, meaning who used it, and they prove that the  
24 intent to defraud was there, meaning how did somebody get  
25 some money out of this? No one got defrauded.

1           We have a very, very flimsy case. We have  
2 these convictions they are trying to show you that they  
3 didn't even bother to run the fingerprints or show any  
4 evidence that this is the same person. Alfred Davis?  
5 How many Alfred Davises are there in Broward or Miami  
6 County? One is from Miami; one is from Broward. How  
7 many Alfred Davises are there?

8           So they want you to say, okay, this guy is bad  
9 because he was convicted before, let's convict him.  
10 That's not how the law works. You don't just convict  
11 somebody based on his past. You have to -- and the jury  
12 instructions will tell you, you have to focus on what's  
13 in front of you. He is charged with the 2023 access  
14 device fraud. I submit to you that this driver's license  
15 is not an access device, that there was no money being  
16 taken, it was not used for that purpose. This charge  
17 should not be here, and the Government has not met their  
18 burden of proof.

19           The facts just don't add up. When you put all  
20 the four puzzles together, it makes it very, like, okay,  
21 there's a lot there, but when you dissect it -- and I ask  
22 you as members of the jury to do your job, and I know you  
23 will do that when you go back. I ask you to dissect all  
24 the pieces of the puzzle, but don't focus on Puzzles 2, 3  
25 and 4 because that is not what you're supposed to do.

1 You're supposed to focus on whether they proved the 2023.  
2 Who submitted this ID? Who testified? The agent didn't  
3 see him. He couldn't testify to anything. The guy who  
4 runs background checks, he just told you how that works.  
5 He didn't see anything. Their star witness, Jeff  
6 Jean-Pierre, told you he has no idea who got that e-mail  
7 and how it was submitted.

8 It is their obligation to call people who can  
9 tell you how this happened. They didn't call Yadalyn  
10 Monteste. They didn't call Marco Chique to say if he was  
11 out money. They didn't do any of that. We can't just  
12 say this is good enough. This has to be proof beyond a  
13 reasonable doubt.

14 When I first introduced myself to you at the  
15 beginning of this case, I told you it was my honor to  
16 represent Alfred Davis, and I will tell you that again.  
17 I'm not going to let him down. I'm not going to let him  
18 to go down for something he didn't do. I ask you to look  
19 at the lack of evidence, the lack of testimony, and bring  
20 this case to justice and find Mr. Davis not guilty.

21 Thank you.

22 THE COURT: Thank you, ma'am.

23 MS. BOZANIC: Thank you.

24 Judge, can we go sidebar for a moment?

25 THE COURT: No.

1 All right. You have 14 minutes left.

2 MR. BAILYN: Ladies and Gentlemen of the Jury,  
3 as I said in the beginning, it is the Government's burden  
4 to prove this case to you. We have discharged that  
5 burden. We have done it meticulously. We have done it  
6 thoroughly. We have presented you with all of the  
7 evidence you need to find this defendant guilty beyond a  
8 reasonable doubt.

9 Now, as I said, it is our burden, but when the  
10 defense makes an argument that someone didn't testify or  
11 someone should have been called, then we and you of the  
12 jury are entitled to ask, well, they have subpoena power,  
13 too. Why didn't they call them?

14 MR. DOMINGUEZ: Objection, your Honor.

15 THE COURT: Sustained. They don't have any  
16 responsibility to present anything.

17 You may proceed.

18 MR. BAILYN: The defense has argued that we've  
19 thrown a bunch of puzzle pieces at you, as if these  
20 puzzle pieces don't fit together into one clear picture.  
21 And the picture is that there is only one person who  
22 would have used this access device, only one person in  
23 the entire world, and that is Alfred Davis sitting there  
24 right now.

25 Yes, he shaved his beard and he grew out his



1 hair, but he is unmistakably the person in that fake ID,  
2 a fake ID that was used to gain access to an apartment  
3 that his mother was the tenant, where his car is  
4 registered, where his personal bank account and a check  
5 signed by him was used to pay some of the rent. Who else  
6 in the world, in the eight billion people in the world,  
7 would have used a fake ID with his picture and done all  
8 of those things?

9 Now, the defense has asked you to look at the  
10 jury instructions, and they have clipped a couple  
11 sentences that they think kind of supports their  
12 position, but it doesn't. An access device is a means of  
13 identification that can be used to initiate a transfer.  
14 As the defense counsel explained, the driver's license  
15 can be used to initiate transfers, just like when you go  
16 to a bank. The intent to defraud does not -- does not --  
17 require that there be a financial loss to somebody. But  
18 think of the evidence. There's no evidence of rent paid.  
19 The defense wants to argue it.

20 MR. DOMINGUEZ: Objection, your Honor.

21 THE COURT: What is the objection?

22 MR. DOMINGUEZ: He's shifting the burden.

23 THE COURT: No, I don't believe that is  
24 shifting the burden. Overruled.

25 MR. BAILYN: Argument by counsel is not

1 evidence, and there's no evidence of rent here at all.  
2 There is no requirement that there be a financial loss.  
3 What is required is that this defendant use an access  
4 device to obtain something to which he is not entitled,  
5 and you can look at those jury instructions and the  
6 definition of access device. It is something, a thing of  
7 value.

8 A luxury apartment, access to a luxury building  
9 is a thing of value. If it were not a thing of value,  
10 then why would anybody pay for it? This defendant  
11 obtained a thing of value.

12 Interstate commerce, I won't show you the jury  
13 instruction, but you'll see. It's an event that causes a  
14 communication between one state and another state. We  
15 have evidence here that the use of this fraudulent  
16 driver's license caused communication between the state  
17 of Florida and databases in California, and then servers  
18 throughout the country. Jason Brown testified to that.  
19 He's been doing this for 20 years.

20 All of the elements have been met, but let me  
21 address just a few of the other things that the defense  
22 has sought to bring up.

23 They want you to believe that the convictions  
24 that we presented to you are not Alfred Davis, but you  
25 heard from Special Agent Weisenstine how he collected

1 these convictions. He uses Alfred Davis's date of birth,  
2 his Social Security number, his full name. He used  
3 Alfred Davis's personal identification, so that he could  
4 look through FBI databases and identify these  
5 convictions.

6 He then went to the court and pulled copies of  
7 those same convictions. And even if it were not Alfred  
8 Davis who was convicted, there is still a reason for this  
9 Alfred Davis to not want a criminal background check run,  
10 because Alfred Davis, whoever he is, and we believe it's  
11 him, has a criminal history.

12 MR. DOMINGUEZ: Objection, your Honor.

13 THE COURT: What is the objection?

14 MR. DOMINGUEZ: He's making up evidence.

15 THE COURT: No, I'll overrule that objection.

16 MR. BAILYN: A criminal history he sought to  
17 hide, not once, but twice, from 400 Sunny Isles.

18 Mr. Jean-Pierre testified that being a felon  
19 does not prevent you from living at 400 Sunny Isles.  
20 There are many felons or there are many people that have  
21 had run-ins with the criminal justice system that have  
22 rehabilitated themselves, but it is something that the  
23 condominium association considers, wants to know, would  
24 ask further questions. And the defendant's felonies that  
25 you have before you are the types of felonies that would

1 engender further questions; felony grand theft, bank  
2 fraud, conspiracy to commit bank fraud. These are  
3 convictions, a criminal history, that the condominium  
4 association should have known about so that it could have  
5 asked further questions, that it could have made a  
6 decision as to whether it wanted Alfred Davis living at  
7 400 Sunny Isles. But, no, this defendant felt he was  
8 entitled, entitled to something that he was not entitled  
9 to. And so he lied, not once. He lied twice.

10 The defendant brought up his authorization form  
11 about a credit check, whatever it was. But if you'll  
12 remember Jason Brown's testimony, you don't need to sign  
13 an authorization form when you do a criminal background  
14 check. It's only for credit checks. In 2023, there was  
15 one background check done. The defense says, Well, maybe  
16 it was because he had evictions. They didn't check for  
17 evictions. Maybe it was because he had bad credit. They  
18 didn't check for credit. They checked for one thing in  
19 2023, criminal history.

20 And because this defendant lied about who he  
21 was, the first thing I told you when I stood up before  
22 you, he lied about who he was. He got something he was  
23 not entitled to. In fact, he got something that is the  
24 most valuable thing that a person can get, a place to  
25 call home, security, a place to park his car. In fact,

1 most people spend more on where they live than any other  
2 part of their budget. It is that important.

3 I'm not a state prosecutor. I'm a federal  
4 prosecutor. This case belongs in federal court. This  
5 defendant used an access device, a counterfeit driver's  
6 license, twice. They're good. They look good, but think  
7 of who he defrauded. Mr. Jean-Pierre, he started as a  
8 front desk worker at 400 Sunny Isles. He's an assistant  
9 property manager at a condominium association. He's not  
10 the keeper of the national archives; these front desk  
11 workers, printing out copies of driver's licenses,  
12 printing out authorization forms, printing out lease  
13 agreements, just work-a-day people. And the defendant  
14 defrauded them because the defendant thought he could get  
15 away with it.

16 Would this defendant have used that counterfeit  
17 driver's license at Special Agent Weisenstine's office?  
18 Absolutely not. Would he use it at my office?  
19 Absolutely not.

20 MR. DOMINGUEZ: Objection, Judge.

21 THE COURT: What is the objection?

22 MR. DOMINGUEZ: This is not rebuttal. He's  
23 talking about other uses and other crimes.

24 THE COURT: I'll permit it. There's certain  
25 latitude permitted on closing arguments, but jury has

1     been instructed that what the lawyers say is not  
2     evidence.

3                 You may proceed, sir.

4                 MR. BAILYN: He used it at a place he knew he  
5     could get away with it, a condominium association.  
6     That's not how this world works. There are laws, and  
7     there are rules. What the defendant did is a violation  
8     of those laws, a violation of those rules, and a  
9     violation of federal law. That's why we've been together  
10    for two days. That's why we're in this courthouse.  
11    That's why there is a federal judge. This is a federal  
12    case.

13                Find him guilty.

14                THE COURT: Thank you, sir.

15                Ladies and Gentlemen of the Jury, it's now my  
16    duty to instruct you on the rules of law that you must  
17    use in deciding this case. After I have completed these  
18    instructions. You'll go to the jury room and begin your  
19    discussions, what we call your deliberations.

20                You must decide whether the Government has  
21    proved the specific facts necessary to find the defendant  
22    guilty beyond a reasonable doubt. Your decision must be  
23    based only on the evidence presented during the trial.  
24    You must not be influenced in any way by either sympathy  
25    for or prejudice against the defendant, or the

1 Government.

2           You must follow the law as I explained it, even  
3 if you do not agree with the law. And you must follow  
4 all of my instructions as a whole. You must not single  
5 out or disregard any of the Court's instructions on the  
6 law.

7           The indictment or formal charge against the  
8 defendant is not evidence of guilt. The law presumes  
9 every defendant is innocent. The defendant does not have  
10 to prove his innocence or produce any evidence at all.  
11 The defendant does not have to testify, and if the  
12 defendant chooses not to testify, you cannot consider  
13 that in any way while making your decision.

14           The Government must prove guilt beyond a  
15 reasonable doubt. If it fails to do so, you must find  
16 the defendant not guilty.

17           The Government's burden of proof is heavy. But  
18 it doesn't have to prove a defendant's guilt beyond all  
19 possible doubt. The Government's proof only has to  
20 exclude any reasonable doubt concerning the defendant's  
21 guilt.

22           A reasonable doubt is a real doubt based on  
23 your reason and common sense after you have carefully and  
24 impartially considered all the evidence in the case.  
25 Proof beyond a reasonable doubt is proof so convincing

1 that you would be willing to rely and act upon it without  
2 hesitation in the most important of your own affairs. If  
3 you are convinced that the defendant has been proved  
4 guilty beyond a reasonable doubt, say so. If you are not  
5 convinced, say so.

6 As I said before, you must consider only the  
7 evidence that I have admitted in the case. Evidence  
8 includes the testimony of witnesses and the exhibits  
9 admitted, but anything the lawyers say is not evidence  
10 and is not binding on you.

11 You should not assume from anything I have said  
12 that I have any opinion about any factual issue in this  
13 case. Except for my instructions to you on the law, you  
14 should disregard anything I may have said during the  
15 trial in arriving at your own decision about the facts.  
16 Your own recollection and interpretation of the evidence  
17 is what matters.

18 In considering the evidence, you may use  
19 reasoning and common sense to make deductions and reach  
20 conclusions. You should not be concerned about whether  
21 the evidence is direct or circumstantial. Direct  
22 evidence is the testimony of a person who asserts that he  
23 or she has actual knowledge of a fact, such as an  
24 eyewitness. Circumstantial evidence is proof of a chain  
25 of facts and circumstances that tend to prove or disprove



1 a fact. There is no legal difference in the weight you  
2 may give to either direct or circumstantial evidence.

3 When I say you must consider all the evidence,  
4 I don't mean that you must accept all of the evidence as  
5 true or accurate. You should decide whether you believe  
6 what each witness had to say, and how important that  
7 testimony was. In making that decision, you may believe  
8 or disbelieve any witness, in whole or in part.

9 The number of witnesses testifying concerning a  
10 particular point does not necessarily matter. To decide  
11 whether you believe any witness, I suggest you ask  
12 yourself a few questions:

13 Did the witness impress you as one who was  
14 telling the truth? Did the witness have any particular  
15 reason not to tell the truth? Did the witness have a  
16 personal interest in the outcome of the case? Did the  
17 witness seem to have a good memory? Did the witness have  
18 the opportunity and ability to accurately observe the  
19 things he or she testified about? Did the witness appear  
20 to understand the questions clearly and answer them  
21 directly? Did the witness's testimony differ from other  
22 testimony or other evidence?

23 The indictment charges one separate crime  
24 called a count against the defendant. The count has a  
25 number. You'll be given a copy of the indictment to

1 refer to during your deliberations.

2 Count I charges that the defendant knowingly,  
3 and with intent to defraud, used a counterfeit access  
4 device, and said conduct affected interstate and foreign  
5 commerce. I caution you that the defendant is on trial  
6 only for the specific crime charged in the indictment.  
7 You're here to determine from the evidence in this case  
8 whether the defendant is guilty or not guilty of that  
9 specific crime. You must never consider punishment in  
10 any way to decide whether the defendant is guilty or not  
11 guilty. If you find the defendant guilty, the punishment  
12 is for me alone to decide later.

13 You'll see that the indictment charges that a  
14 crime was committed on or about a certain date. The  
15 Government doesn't have to prove that the offense  
16 occurred on a particular date, or on an exact date. The  
17 Government only has to prove beyond a reasonable doubt  
18 that the crime was committed on a date reasonably close  
19 to the date alleged.

20 The word knowingly means that an act was done  
21 voluntarily and intentionally and not because of a  
22 mistake or by accident.

23 The Government must prove beyond a reasonable  
24 doubt that the defendant was the person who committed the  
25 crime. After examining all the evidence, if you have a

1 reasonable doubt that the defendant was the person who  
2 committed the crime, you must find the defendant not  
3 guilty.

4           During the trial you heard evidence of acts  
5 allegedly done by the defendant on other occasions that  
6 may be similar to acts with which the defendant is  
7 currently charged. This evidence is admitted and may be  
8 considered by you for the limited purpose of assisting  
9 you in determining whether the defendant had the state of  
10 mind or intent necessary to commit the crime charged in  
11 the indictment, whether the defendant had a motive or the  
12 opportunity to commit the acts charged in the indictment,  
13 whether the defendant acted according to a plan or in  
14 preparation to commit a -- to commit a crime.

15           That needs to be fixed. That's a typo in  
16 there, Jessica, wherever you are. I am interlineating  
17 the word crime for mistake, and I'm initialing it.

18           You may not consider this evidence for any  
19 other purpose.

20           The defendant is on trial only for the crime  
21 charged --

22           I'm going to just change this page. It said  
23 crimes, but it's only one crime --

24           (Continuing) -- charged in the indictment. You  
25 may not convict a person simply because you believe that

1 person may have committed an act in the past that is not  
2 charged in the indictment.

3 So I hope you understand that any evidence of  
4 any prior conduct is only shown for the purpose of either  
5 the intent or the state of mind, whether a motive or  
6 opportunity to commit the crime, or whether the defendant  
7 acted according to a plan or in preparation to commit a  
8 crime. You may not convict a person simply because you  
9 believe that person may have committed an act in the past  
10 that is not charged in the indictment.

11 During the trial, you heard the evidence of acts  
12 allegedly done by the defendant on other occasions that  
13 may be similar to acts with which the defendant is  
14 currently charged. If you find the defendant committed  
15 the allegedly similar acts, you may use that evidence to  
16 help you decide whether the similarity between those acts  
17 and the one charged in this case suggest that the same  
18 person committed all of them. You may not consider this  
19 evidence for any other purpose.

20 The defendant is currently on trial only for  
21 the crime charged in the indictment. You may not convict  
22 a person simply because you believe that person may have  
23 committed an act in the past that is not charged in this  
24 indictment.

25 It is a federal crime to use counterfeit credit

1 cards or any other access device. The defendant can be  
2 found guilty of this crime only if all the following  
3 facts are proved beyond a reasonable doubt:

4 One, the defendant knowingly used a counterfeit  
5 access device; two, the defendant knew the access device  
6 was counterfeit and acted with the intent to defraud or  
7 deceive; and three, the defendant's conduct affected  
8 interstate or foreign commerce.

9 An access device is a credit card, plate, code,  
10 account number, electronic serial number, mobile  
11 identification number, personal identification number, or  
12 other means of account access that can be used alone or  
13 in conjunction with another access device to get money,  
14 goods, services, or any other thing of value, or that can  
15 be used to initiate a transfer of funds other than a  
16 transfer originated solely by paper instrument.

17 A counterfeit access device is an access device  
18 that's counterfeit, fictitious, altered or forged, or an  
19 identifiable component of an access device or a  
20 counterfeit access device.

21 To use includes any effort to obtain money,  
22 goods, services, or any other thing of value, or to  
23 initiate a transfer of funds with a counterfeit access  
24 device.

25 To act with intent to defraud means to act with

1 intent to deceive or cheat, usually for personal  
2 financial gain, or to cause financial loss to someone  
3 else.

4 The heart of the crime is the knowing use of a  
5 counterfeit access device with intent to defraud. The  
6 Government does not have to prove that anyone was  
7 actually deceived or defrauded.

8 The term interstate commerce refers to any  
9 transaction or event that involves travel, trade,  
10 transportation, or communication between a place in one  
11 state and a place in another state. The Government does  
12 not have to prove that the defendant specifically  
13 intended to interfere with or affect interstate commerce,  
14 but the Government must prove that the natural  
15 consequence of the facts alleged in the indictment would  
16 be to affect interstate commerce.

17 For example, if you find beyond a reasonable  
18 doubt that the device was used to purchase goods from  
19 another state, that the device was used to purchase goods  
20 manufactured outside of the state, you may find that  
21 interstate commerce has been affected.

22 You have just heard evidence of acts allegedly  
23 done by the defendant that may be similar to those  
24 charged -- you heard, not just.

25 You have heard evidence of acts allegedly done

1 by the defendant -- I'm deleting the word "just" because,  
2 obviously, the only thing you have heard today is  
3 arguments.

4           You have heard evidence of acts allegedly done  
5 by the defendant that may be similar to those charged in  
6 the indictment or were committed on other occasions. If  
7 you find the defendant committed the allegedly similar  
8 acts, you may use this evidence to help you decide  
9 whether the similarity between the acts and the one  
10 charged in this case suggests the same person committed  
11 the offense -- or committed all of them. I'll read that  
12 again.

13           You have heard evidence of acts allegedly done  
14 by the defendant that may be similar to those charged in  
15 the indictment but were committed on other occasions. If  
16 you find the defendant committed the allegedly similar  
17 acts, you may use this evidence to help you decide  
18 whether the similarity between those acts and the one  
19 charged in this case suggests the same person committed  
20 all of them.

21           The defendant is currently on trial only for  
22 the crime charged in this indictment. You may not  
23 convict a person simply because you believe that person  
24 may have committed an act in the past that is not charged  
25 in this indictment.

1           You have heard evidence -- this is the -- it's  
2 not the same but it's similar to the previous one.

3           You have heard evidence of acts allegedly done  
4 by the defendant that may be similar to those charged in  
5 the indictment but were committed on other occasions.  
6 You must not consider this evidence to decide if the  
7 defendant engaged in the activity alleged in the  
8 indictment, but you may consider this evidence to decide  
9 whether the defendant had the state of mind or intent  
10 necessary to commit the crime charged in the indictment,  
11 the defendant had a motive or the opportunity to commit  
12 the acts charged in the indictment, the defendant acted  
13 according to a plan or in preparation to commit a crime,  
14 or the defendant committed the acts charged in the  
15 indictment by accident or mistake.

16           Your verdict, whether guilty or not guilty,  
17 must be unanimous, in other words, you must all agree.  
18 Your deliberations are secret and you'll never have to  
19 explain your verdict to anyone. Each of you must decide  
20 the case for yourself but only after fully considering  
21 the evidence with the other jurors. So you must discuss  
22 the case with one another and try to reach an agreement.  
23 While you're discussing the case, don't hesitate to  
24 re-examine your own opinion and change your mind if you  
25 become convinced that you were wrong, but don't give up



1 your honest beliefs just because others think differently  
2 or because you simply want to get the case over with.

3 Remember, that in a very real way you are the  
4 judges, judges of the facts. Your only interest is to  
5 seek the truth from the evidence in the case.

6 When you get to the jury room, choose one of  
7 your members to act as foreperson. The foreperson will  
8 direct your deliberations and will speak for you in  
9 court.

10 A verdict form has been prepared for your  
11 convenience. Simplest verdict form known to man, this  
12 long (indicating).

13 It says, style of the case, United States  
14 District Court for the Southern District of Florida, Case  
15 No. 24-CR-20051-Martinez, *United States of America versus*  
16 *Alfred Lenoris Davis, defendant.*

17 Verdict form: We, the jury, unanimously find  
18 the defendant, Alfred Lenoris Davis, as to Count I of the  
19 indictment, and there is a place for not guilty and a  
20 place for guilty. You put an X next to whichever you  
21 vote unanimously on. Again a reminder that it's  
22 unanimous.

23 So say we all, and then a line for the  
24 signature by the foreperson. And I want you to print  
25 your name under that because I can't read the name

1 sometimes, and then date it today. Today is the 15th, I  
2 believe; isn't it?

3 MR. DOMINGUEZ: The 15th, Judge.

4 THE COURT: Today is the 15th of April -- May,  
5 whatever it is.

6 MR. DOMINGUEZ: May.

7 THE COURT: You guys know better than I do.

8 Now, I'm going to give you a copy of the  
9 indictment -- excuse me, of the instructions, so you can  
10 take them back with you, but I do want to make those  
11 changes. So I'm going to do that first.

12 Perian Field and Shari Walsh, you are the  
13 alternates, so you do not -- do you have anything in the  
14 jury room?

15 ALTERNATE JUROR: No.

16 THE COURT: Ms. Fields, do you have anything in  
17 the jury room?

18 ALTERNATE JUROR: No.

19 THE COURT: Then come on this way, and we'll --  
20 I'll talk to you in my chambers and thank you for your  
21 service. And then the rest of you, if you will go into  
22 the jury room, I will have the instructions as soon as  
23 they are modified, and the verdict form brought into you  
24 in a couple of minutes.

25 So go into the jury room. You may start

1 selecting your foreperson, and then I'll send you the  
2 instructions in just a moment, as soon as I can  
3 physically get them typed. All right? Go on into the  
4 jury room.

5 (Jury exits at 12:00 p.m.)

6 THE COURT: You all can be seated.

7 Ladies and gentlemen, there is one thing that  
8 I'm kind of a little bit annoyed. I'm concerned and I  
9 hope that the jury returns a verdict today -- well, they  
10 should, but apparently there is a full-page advertisement  
11 on the back page of the New Times of Blacks For Trump  
12 that have your client as an innocent victim that is here  
13 totally erroneously and through the machinations of the  
14 federal system, including me. I'm not real happy about  
15 that.

16 MR. DOMINGUEZ: Judge, we don't know anything  
17 about it.

18 THE COURT: I'm sure you don't. If I thought  
19 you did, you'd be going out that door instead of that  
20 door. But I got to tell you, it appears to me to be a  
21 blatant attempt to interfere with the jury. I -- frankly,  
22 I don't think the New Times has such a great distribution  
23 that it's going to be something that they picked up on  
24 the way here, but there is more than one picture of your  
25 client, the same picture that's used in this prosecution.

1 And it is very, very unsettling to me.

2 I can assure you that I am nowhere near as  
3 lenient as the judge in, wherever, New York. If I find  
4 that somebody is attempting to influence the jury with  
5 something that's going on outside, somebody's going to be  
6 punished for it.

7 MR. DOMINGUEZ: Judge, if you want to ask the  
8 jury if they have had access to it.

9 THE COURT: No, I don't want to ask them  
10 because I don't want to tell them about it. I don't  
11 think it's likely that -- I don't know. How likely is it  
12 that somebody is going to look at the back page of the  
13 New Times? No offense to the New Times, but I don't  
14 think that that's likely.

15 MR. DOMINGUEZ: I don't even know when it came,  
16 if it came out today.

17 THE COURT: I got it from our security people  
18 today. So I would assume that it came out today, but I  
19 don't know that for a fact.

20 MR. DOMINGUEZ: Well, they were instructed to  
21 not look at news or --

22 THE COURT: I did tell them that, but I'm not  
23 sure that any of them would consider the New Times a  
24 newspaper. So I don't know.

25 MR. DOMINGUEZ: No, I don't think so.

1 THE COURT: I'm just very annoyed. We'll see.

2 MR. DOMINGUEZ: Judge, I can assure you nobody  
3 here knows about it.

4 THE COURT: I don't believe that you did. I  
5 know both of you, and I don't think that you would do  
6 that.

7 MR. DOMINGUEZ: No, no.

8 THE COURT: But I'm hoping that anybody that  
9 might have had something to do with it, would -- never  
10 mind. We'll be in attendance. Please wait here.

11 MS. BOZANIC: May I address one exhibit, Judge?

12 THE COURT: What's that?

13 MS. BOZANIC: No, we resolved it. Never mind.  
14 We're good.

15 THE COURT: You guys work it out it. If you  
16 can't, call me and I will come back.

17 MR. DOMINGUEZ: It worked out.

18 THE COURT: You guys wait here because I don't  
19 think that we need to break for any particular time,  
20 maybe in a half-hour, I'll come back and let you go  
21 somewhere as long as you can be back within 10 or 15.

22 MR. DOMINGUEZ: We'll be on the 7th floor.  
23 We'll give our cell phone numbers as well, Judge.

24 THE COURT: All right.

25 (Court recessed at 12:04 p.m.)

1 (Court resumed at 2:11 p.m.)

2 (Call to the Order of the Court.)

3 THE COURT: Okay. We've received a note from  
4 the jury.

5 Have you distributed the note to the parties?

6 COURTROOM DEPUTY: No.

7 THE COURT: Okay. You may be seated.

8 The note says that they've reached a verdict.

9 Is there any reason we should not receive the  
10 verdict at this time?

11 MR. BAILYN: Not from the Government.

12 MS. BOZANIC: No, Judge -- well, you had  
13 reserved on the Rule 29 motion.

14 THE COURT: I'm still reserving.

15 MR. DOMINGUEZ: Okay. Then there's no reason.

16 THE COURT: Please bring in the jury.

17 (Jury enters at 2:12 p.m.)

18 THE COURT: All right. You may all be seated.

19 Mr. Safran, it's my understanding that the jury  
20 has reached a verdict; is that correct?

21 THE FOREPERSON: Yes.

22 THE COURT: All right. Could you please give  
23 it to the Court Security Officer?

24 Iris, please publish the jury verdict.

25 COURTROOM DEPUTY: Case No. 24-CR-20051-

1     Martinez, *United States of America versus Alfred Lenoris*  
2     *Davis*.

3             Verdict form. We, the jury, unanimously find  
4     the defendant, Alfred Lenoris Davis, as to Count I of the  
5     indictment, guilty. So say we all, signed by the  
6     foreperson dated May 15, 2024.

7             THE COURT: All right. Ladies and gentlemen of  
8     the jury, we thank you very much for your service. I  
9     will be in in just a moment to speak to you to thank you  
10    personally and to give you certificates that are suitable  
11    for framing, but not much else.

12            Your lunch is on the way up, so you'll be able  
13    to take your lunch with you, which is good because I  
14    haven't eaten yet. So if you will go into the jury room  
15    and wait for me, I will be there in just a moment.

16            (Jury exits at 2:15 p.m.)

17            THE COURT: All right. You may be seated  
18    except for the defense.

19            Mr. Alfred Lenoris Davis, a jury of your peers,  
20    having found you guilty of Count I of the indictment  
21    pending against you, I hereby adjudicate you guilty.

22            What is the Government's position on bond at  
23    this point?

24            MR. BAILYN: Your Honor, we would ask that the  
25    defendant be remanded.

1 THE COURT: I'm not sure. I think there's  
2 enough issue in this case that I think I'll let him out  
3 until, at the very least, until sentencing.

4 So I will permit you to remain on bond under  
5 the same terms and conditions that you have been up to  
6 this time. But, Mr. Davis, don't let me down because I'm  
7 trusting you. We will talk again.

8 Do we have a date for sentencing?

9 COURTROOM DEPUTY: Yes, Judge. The sentencing  
10 date is Thursday, July 11th at 11:00 a.m.

11 THE COURT: All right. At this point, I'll  
12 refer you to the U.S. Probation Office for the  
13 preparation of a sentencing memorandum. And cooperate  
14 with them. They'll tell you where to be. Failure to  
15 show up is a separate crime and a very serious one,  
16 sometimes more serious than the underlying crime. So you  
17 must show up at the various times that you're told to.

18 Talk to the probation office people. Help them  
19 prepare your presentence investigation. And we'll see  
20 you back here on Thursday, July 11th --

21 At what time?

22 COURTROOM DEPUTY: 11:00 a.m.

23 THE COURT: -- 11:00 a.m. here in this courtroom,  
24 all right?

25 We will in recess on this matter. I'll get you



1 your exhibits in a moment.

2 (Proceedings concluded at 2:17 p.m.)

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C E R T I F I C A T E

I certify that the foregoing pages represent a true and correct transcript of the above-styled proceedings as reported on the date, time, and location listed.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was reported, and further that I am not financially nor otherwise interested in the outcome of the above-entitled matter.

DATE: 6/24/24     /s/Mary Ann Casale, RDR, FPR-C, CLR, CSR-IL  
Official Court Reporter  
United States District Court  
Southern District of Florida  
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